

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHILLIP RACINE, JR.,

Plaintiff,

V.

MENARD, INC.,

Defendant.

Case No. _____

(Removed from the Circuit
Court of Cook County, County
Department, Law Division
Case No. 21 L 003685)

JURY DEMAND

NOTICE OF REMOVAL

NOW COMES the Defendant, MENARD, INC. ("Menard"), by and through its attorneys, Ottosen DiNolfo Hasenbalg & Castaldo, Ltd., pursuant to 28 U.S.C. §§ 1332, 1367, and 1441, and files this Notice of Removal of the above captioned matter from the Circuit Court of Cook County, Illinois, County Department, Law Division, under Case Number 21 L 003685 to this Honorable Court.

In support of this Notice, Menard states the following:

JURISDICTION

1. This action is a civil action of which this Court has original jurisdiction over the Complaint at Law, under 28 U.S.C. § 1332(a)(1), which may be removed to this Court by Menard pursuant to the provisions of 28 U.S.C. § 1441(a) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, because the Plaintiff, PHILLIP RACINE, JR. ("Racine") is a citizen of Illinois; the Defendant, Menard, is a Wisconsin Corporation; and Plaintiff is seeking from Menard damages in excess of \$75,000 for serious personal injuries.

STATEMENT OF FACTS

2. On April 7, 2021, an action was commenced in the Circuit Court of Cook County, Illinois, County Department, Law Division, entitled "PHILLIP RACINE, JR., Plaintiff, v. MENARD, INC., Defendant" (Case Number 21 L 003685).

3. Menard was served with summons on April 22, 2021 and received a copy of Plaintiffs' complaint on the same date. As a result, this Notice is filed within the time required by law.

4. A copy of all process, pleadings and orders served upon Menard in the state court action are attached hereto as **Exhibit A**.

5. This Notice for Removal is timely made under 28 U.S.C. § 1446(b). Not more than 30 days have passed since service of the Complaint on Menard which enabled Menard to ascertain that this case was removable.

BASIS FOR REMOVAL OF COUNT I

6. Removal of a civil action is allowed under 28 U.S.C. § 1441 by a Defendant who is sued on a claim or right that has original jurisdiction in the federal district court.

7. Plaintiffs' Complaint at Law is removable based on 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000 and there is complete diversity of citizenship between the plaintiff and the defendant, thus the action is within the subject matter jurisdiction of this Court.

8. At the time that this action commenced, Phillip Racine, Jr. was, and continues to be, a citizen of the State of Illinois.

9. At the time that this action commenced, Menard was, and continues to be, a corporation incorporated under the laws of Wisconsin, having its principal place of business in the State of Wisconsin at 5101 Menard Drive, Eau Claire, Wisconsin 54703.

10. This action is a civil action in which the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, because Phillip Racine, Jr. has alleged, through his Complaint facts that lead Menard to believe his damages are in excess of \$75,000.

11. Plaintiffs' Complaint alleges that Phillip Racine, Jr. was coming down an escalator when another customer was coming down the escalator behind the Plaintiff with construction materials on a cart that were dropped and struck the Plaintiff, injuring his head, neck and back. Following the incident, the Plaintiff received epidural injections "that resulted in Plaintiff being paralyzed."

COMPLIANCE WITH REMOVAL PROCEDURES

12. Menard has complied with all the procedural requirements for removal set forth in 28 U.S.C. § 1446. As noted above, the notice of removal is being filed within 30 days of the service of the lawsuit.

13. Notice of this removal is being provided to Plaintiffs, through his attorneys of record and the Circuit Court of Cook County, Illinois.

14. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the Circuit Court of Cook County, Illinois, County Department, Law Division, in Case No. 21 L 003685.

WHEREFORE, for the foregoing reasons, the Defendant, Menard, Inc., removes this action from the Circuit Court of Cook County, Illinois to the United States District

Court for the Northern District of Illinois, Eastern Division, and respectfully requests that the Court exercise jurisdiction over this matter.

Respectfully submitted,

MENARD, INC.

Dated: May 21, 2021

By: /s/ W. Anthony Andrews
One of its attorneys

W. Anthony Andrews (ARDC No. 6217267)
William R. Thomas (ARDC No. 6207872)
OTTOSEN DiNOLFO HASENBALG & CASTALDO, LTD.
1804 N. Naper Blvd., Suite 350
Naperville, IL 60563
(630) 682-0085 – Phone

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, W. ANTHONY ANDREWS, do hereby certify, and having been first duly sworn upon oath do hereby state, that I have read the above and foregoing Notice of Removal, by me subscribed as signatory for MENARD, INC., and the same is true and correct to the best of my knowledge and belief.

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

SUBSCRIBED and SWORN to before
me this 21st day of May, 2021.

/s/ Andrea Mangialardi
NOTARY PUBLIC

W. Anthony Andrews (ARDC No. 6217267)
William R. Thomas (ARDC No. 6207872)
OTTOSEN DiNOLFO HASENBALG & CASTALDO, LTD.
1804 N. Naper Blvd., Suite 350
Naperville, IL 60563
(630) 682-0085 – Phone